

FILED

MAR 9 2 2012

U.S. District & Bankruptcy  
Courts for the District of Columbia

UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA

John Doe,  
Plaintiff,

VS.

David H. Petraeus,  
Director of Central Intelligence Agency,  
Defendant.

Serve: David H. Petraeus  
Director of Central Intelligence Agency  
Litigation Division  
Office of General Counsel  
Central Intelligence Agency  
Washington, DC 20505

Ronald C. Machen, Jr.  
Office of the United States Attorney  
Attention: Civil Process Clerk  
555 4<sup>th</sup> Street, NW  
Washington, DC 20530

Eric Holder  
United States Attorney General  
c/o Department of Justice  
950 Pennsylvania Avenue, NW  
Room B-103  
Washington, DC 20530-0001

Defendant.

CIVIL ACTION NO. \_\_\_\_\_

Case: 1:12-cv-00382  
Assigned To : Roberts, Richard W.  
Assign. Date : 3/12/2012  
Description: Employ. Discrim.

# JURY ACTION

# A JURY IS DEMANDED

## Plaintiff's Original Complaint

This country enacted disability laws to eliminate the prejudice and stereotypes that kept good applicants out of jobs solely because of disabilities. Yet, more than 35 years after the passage of the Rehabilitation Act, the government ignored that mandate and denied Plaintiff a job because he has a disability – Type 1 diabetes. If the government had assessed him as an individual, it would have recognized that he is capable of performing the job of operations

officer with distinction anywhere in the world – and Doe would today be fulfilling his goal of serving his country.

### **JURISDICTION AND VENUE**

1. This case is brought pursuant to the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 791, et seq. (“Rehabilitation Act”). This Court has jurisdiction of this case according to 28 U.S.C. § 1331.

2. Venue is invoked pursuant to 28 U.S.C. § 1391.

### **PARTIES**

3. The plaintiff, John Doe<sup>1</sup>, is an adult resident of the United States of America.

4. The defendant, David H. Petraeus, is the Director of the Central Intelligence Agency and is sued in his capacity as head of a department in the executive branch of the Federal Government within the meaning of 29 U.S.C. §§ 791 and 794. The defendant may be served with process at his business address, Litigation Division, Office of General Counsel, Central Intelligence Agency, Washington, DC 20505. A copy of this complaint is also being served on the United States Attorney for the District of Columbia.

### **STATEMENT OF FACTS**

5. John Doe has excellent qualifications for the position of Operations Officer. Because he was qualified for the position, Defendant offered him the job. He has an undergraduate degree in history and three graduate degrees. He is bilingual and has traveled extensively, including to many developing countries. He has worked in a variety of different positions in law and banking, economic development, and venture capital.

6. Doe began the application process for an Operations Officer position in January 2009.

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<sup>1</sup> Due to the nature of the position at issue, an alias is being used instead of the plaintiff’s given name.

The process included in-person meetings and written tests. The CIA extended him an offer of employment on May 13, 2010. Doe accepted the offer and advised the agency that he had Type 1 diabetes. The CIA requested further information on Doe's diabetes and full access to his medical records. Doe provided the information and a medical release. His medical records were provided to the agency. Shortly thereafter, Defendant withdrew the job offer and told him he would not be hired after all. The letter stated that the revocation was not appealable, but that Doe could re-apply in one year. On July 26, 2011, Doe called the CIA, asking for more information on the revocation of his previous offer and for permission to re-apply sooner than March 5, 2012. On August 1, 2011, the CIA responded and told Doe that he would not be permitted to re-apply at any time.

7. The CIA revoked Doe on the basis of his medical condition despite the fact that Doe keeps his diabetes under superb control through diet, exercise, and insulin injections. Since his diagnosis in 2006, Doe has maintained an A1c level that is at or below 6.0, a demonstration of exceptional control of his diabetes. He has also had no complications of the condition and has never needed the assistance of anyone in managing it. He has worked hard to ensure that he is fit for duty.

8. Even though Doe is eminently qualified to serve his country as an Operations Officer, Defendant rescinded the offer of employment based on Plaintiff's disability, Type 1 diabetes, and Defendant's perception that he had a disability. This is a violation of the Rehabilitation Act. Doe is and was a qualified individual whose employment offer was rescinded only because he is a person with a disability and was regarded as having a disability. The rescission of the employment offer has deprived Plaintiff of his chosen career.

#### **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

9. In March 2011, Plaintiff was denied a job and told he could re-apply in a year but

could not appeal the decision. Defendant did not notify Plaintiff of a 45 day deadline to challenge the decision through the EEO process, nor was Plaintiff aware of this from any other source. He learned of this deadline later, and sought counseling on September 8, 2011, within 45 days of the date he learned of the deadline. He exhausted his administrative remedies by filing a formal written complaint with the Central Intelligence Agency on November 12, 2011, which was denied.<sup>2</sup> Doe received a right to sue letter from the Office of Equal Employment Opportunity on December 12, 2011, authorizing this civil action. All administrative prerequisites have occurred or been performed.

### **DISABILITY DISCRIMINATION**

10. The plaintiff is a qualified individual who has a disability and was regarded as having a disability. The plaintiff was and is eminently qualified to serve as an Operations Officer for the Central Intelligence Agency, but his offer of employment was rescinded because of his disability.

### **DAMAGES**

11. The damages suffered by the plaintiff include lost wages and benefits, accruing, as well as compensatory damages for the injuries suffered at the hands of the defendant, including, but not limited to, mental anguish.

### **RELIEF REQUESTED**

The plaintiff asks this court to enter a judgment:

1. Declaring that the acts and practices complained of in this Complaint are in violation of the Rehabilitation Act;

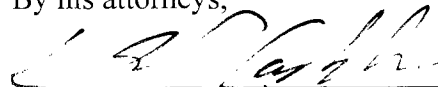
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<sup>2</sup>Plaintiff's written complaint was denied on the basis that he had not initiated EEO counseling within 45 days of his job offer being rescinded. However, extension of this deadline was required under 29 CFR § 1614.105(a)(2).

2. Enjoining and permanently restraining these violations of law;
3. Directing the defendant to pay the plaintiff actual and compensatory damages that he suffered, past and future;
4. Awarding plaintiff equitable relief, including but not limited to instatement and/or front pay;
5. Awarding plaintiff pre-judgment interest on the amounts owed at the maximum rate allowed by law;
6. Awarding plaintiff the costs of this action, together with reasonable attorneys' fees and expert witness fees;
7. Awarding plaintiff post-judgment interest on the amount of judgment until paid at the maximum rate allowed by law; and
8. Awarding plaintiff such other relief, legal or equitable, as may be warranted.

Respectfully submitted,

John Doe,  
By his attorneys,



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